

APPROVED

BOARD OF DENTISTRY

MINUTES

SPECIAL CONFERENCE COMMITTEE "C" MEETING

TIME AND PLACE: Special Conference Committee "C" convened on September 29, 2006, at 9:10 a.m. at the Department of Health Professions, 6603 W. Broad Street, Richmond, Virginia.

APPROVAL OF MINUTES: On a properly seconded motion by Ms. Sissom, the Committee approved the Minutes of the Special Conference Committee "C" meeting held on May 26, 2006.

FIRST CONFERENCE: 9:10 a.m.

PRESIDING: James D. Watkins, D.D.S.

MEMBERS PRESENT: Darryl J. Pirok, D.D.S.
Misty L. Sissom, R.D.H.

STAFF PRESENT: Patricia L. Larimer, Deputy Executive Director
Cheri Emma-Leigh, Operations Manager
Leigh C. Kiczales, Adjudication Specialist

QUORUM: All three members of the Committee were present.

**Flavio W. Nasr, D.D.S.
Case No. 101057**

Flavio W. Nasr, D.D.S., appeared without counsel, to discuss allegations that he may have:

1. failed to display his license to practice dentistry within plain view of patients, in violation of § 54.1-2706(9) and § 54.1-2721 of the Code;
2. failed to post the radiation certificates of Employees F and G, who are not licensees of the Board, in plain view of the patients, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-195 of the Regulations of the Board of Dentistry;
3. failed to have in writing, the consent of his dental hygienist to provide services under general supervision or written basic emergency procedures for the dental hygienist, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-210.D(1), (2), (3), and (4) of the Regulations of the Board of Dentistry;
4. maintained inadequate records in that Patient A's record does not contain a list of drugs prescribed, administered, dispensed, or the quantity; does not contain the signature of the dentist and dental hygienist providing service on

September 29, 2003 and January 12, 2005; and contains lab orders that do not include the signature and address of the dentist, in violation of § 54.1-2706(9) and § 54.1-2719.B of the Code and 18 VAC 60-20-15(4), (7), and (8) of the Regulations of the Board of Dentistry;

5. maintained inadequate records in that Patient B's record does not have the patient's name at the top of all pages; the record does not contain a list of drugs prescribed, administered, dispensed, or the quantity; the record does not contain financial records; and the record does not contain the signature of the dentist and dental hygienist providing service on March 13, 2003, March 25, 2003, April 3, 2003, September 29, 2003, October 20, 2003, January 22, 2004, August 17, 2004, and January 15, 2005, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-15(1), (4), (6), and (7) of the Regulations of the Board of Dentistry;
6. maintained inadequate records in that Patient C's record does not contain an initial health history, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-15(2) of the Regulations of the Board of Dentistry; and
7. maintained inadequate records in that Patient E's record does not contain the strength and quantity of topical anesthetic administered on November 22, 2004, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-15(4) of the Regulations of the Board of Dentistry.

The Committee received Dr. Nasr's statements and discussed the evidence in the case with him.

Closed Meeting:

Ms. Sissom moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Flavio W. Nasr, D.D.S. Additionally, Ms. Sissom moved that Board staff, Patricia Larimer, Cheri Emma-Leigh, and Administrative Proceedings Division staff, Leigh Kiczales, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

Ms. Sissom moved to certify that only matters lawfully

exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

The Committee reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision:

Ms. Kiczales reported the Findings of Fact and Conclusions of Law adopted by the Committee. A summary of the Findings of Fact and Conclusions of Law are as follows:

1. Dr. Nasr holds a current Virginia dental license;
2. Dr. Nasr's license to practice dentistry was not displayed within plain view of patients, in violation of § 54.1-2706(9) and § 54.1-2721 of the Code;
3. Dr. Nasr did not post the radiation certificates of Employees F and G, who are not licensees of the Board, in plain view of the patients, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-195 of the Regulations of the Board of Dentistry;
4. Dr. Nasr did not have the consent of his dental hygienist to provide services under general supervision in writing or written basic emergency procedures for the dental hygienist, as required by the Regulations. Further, Employee H, a dental hygienist treated Patient E on November 22, 2004, without general supervision provisions in writing, without an order in the record by the dentist, and there is no record that the patient was informed prior to the appointment that the dentist would not be present, in violation of § 54.1-2706(9) and 18 VAC 60-20-210.D(1), (2), (3), and (4) of the Regulations of the Board of Dentistry;
5. Dr. Nasr's records for Patient A do not contain a list of drugs prescribed, administered, dispensed, or the quantity; does not contain the signature of the dentist and dental hygienist providing service on September 29, 2003 and January 12, 2005; and contains lab orders that do not include the signature and address of the dentist, in violation of §54.1-2706(9) and § 54.1-2719.B of the Code of Virginia and 18 VAC-60-20-

- 15(4), (7), and (8) of the Regulations of the Board of Dentistry;
6. Dr. Nasr's records for Patient B does not have the patient's name at the top of all pages; the record does not contain a list of drugs prescribed, administered, dispensed, or the quantity; the record does not contain financial records; and the record does not contain the signature of the dentist and dental hygienist providing service on March 13, 2003, March 25, 2003, April 3, 2003, September 29, 2003, October 20, 2003, January 22, 2004, August 17, 2004, and January 15, 2005, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-15(1), (4), (6), and (7) of the Regulations of the Board of Dentistry; and
 7. Dr. Nasr's records for Patient C does not contain an initial health history, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-15(2) of the Regulations of the Board of Dentistry.

The sanction reported by Ms. Kiczales was that Dr. Nasr be assessed a \$1,000.00 monetary penalty, be required to complete seven (7) continuing education hours in recordkeeping, and be subjected to one unannounced inspection, to include 10 random records.

Dr. Pirok moved that the Committee adopt the Findings of Fact and Conclusions of Law, and the sanctions as reported by Ms. Kiczales. The motion was seconded and passed.

As provided by law, this decision shall become a Final Order thirty days after service of such on Dr. Nasr unless a written request to the Board for a formal hearing on the allegations made against him is received from Dr. Nasr. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this conference committee shall be vacated.

SECOND CONFERENCE: 10:04 a.m.

PRESIDING: James D. Watkins, D.D.S.

MEMBERS PRESENT: Darryl J. Pirok, D.D.S.
Misty L. Sissom, R.D.H.

STAFF PRESENT: Patricia L. Larimer, Deputy Executive Director
Cheri Emma-Leigh, Operations Manager
Leigh C. Kiczales, Adjudication Specialist

QUORUM: All three members of the Committee were present.

**Lawrence James Kyle, D.D.S.
Case No. 99764** Lawrence James Kyle, D.D.S., appeared with counsel, John G. Rocovich, Jr., Esq., to discuss allegations that he may have erroneously performed a root canal treatment on Patient A's tooth #18, rather than tooth #19, in violation of § 54.1-2706(5) and (11) of the Code.

The Committee received Dr. Kyle's statements and discussed the evidence in the case with him.

Closed Meeting: Ms. Sissom moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Lawrence Kyle, D.D.S. Additionally, Ms. Sissom moved that Board staff, Patricia Larimer, Cheri Emma-Leigh, and Administrative Proceedings Division staff, Leigh Kiczales, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene: Ms. Sissom moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

The Committee reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision: Ms. Kiczales reported the Findings of Fact and Conclusions of Law adopted by the Committee. A summary of the

Findings of Fact and Conclusions of Law are as follows:

1. Dr. Kyle holds a current Virginia dental license; and
2. Dr. Kyle, by his own admission, during the course of treatment of Patient A on or about March 6, 2003, erroneously performed a root canal treatment on tooth #18, rather than tooth #19, for which treatment was indicated, in violation of § 54.1-2706(5) of the Code.

Ms. Kiczales reported that the Committee will not impose any sanctions.

Dr. Pirok moved that the Committee adopt the Findings of Fact and Conclusions of Law, and that no sanctions be imposed as reported by Ms. Kiczales. The motion was seconded and passed.

As provided by law, this decision shall become a Final Order thirty days after service of such on Dr. Kyle unless a written request to the Board for a formal hearing on the allegations made against him is received from Dr. Kyle. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this conference committee shall be vacated.

THIRD CONFERENCE:

1:03 p.m.

PRESIDING:

James D. Watkins, D.D.S.

MEMBERS PRESENT:

Darryl J. Pirok, D.D.S.
Misty L. Sissom, R.D.H.

STAFF PRESENT:

Patricia L. Larimer, Deputy Executive Director
Cheri Emma-Leigh, Operations Manager
Leigh C. Kiczales, Adjudication Specialist

QUORUM:

All three members of the Committee were present.

**James W. Holley, IV, D.D.S.
Case No. 101743**

James W. Holley, IV, D.D.S., appeared without counsel, to discuss allegations that he may have maintained inadequate records in that dental records for Patient A failed to state a

diagnosis and treatment rendered; failed to list the drugs prescribed, administered, dispensed and the quantity thereof; and failed to identify the dentist or dental hygienist providing the service, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-15(3), (4) and (7) of the Regulations of the Board of Dentistry.

Dr. Watkins stated that he knows Dr. Holley from working with him at the Old Dominion Dental Society and that he could make an impartial decision in this case. Dr. Watkins asked the Committee members and the respondent, if they had any objections to his hearing this matter and no objections were made.

The Committee received Dr. Holley's statements and discussed the evidence in the case with him.

Closed Meeting:

Ms. Sissom moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of James W. Holley, IV, D.D.S. Additionally, Ms. Sissom moved that Board staff, Patricia Larimer, Cheri Emma-Leigh, and Administrative Proceedings Division staff, Leigh Kiczales, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

Ms. Sissom moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

The Committee reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision:

Ms. Kiczales reported the Findings of Fact and Conclusions of Law adopted by the Committee. A summary of the Findings of Fact and Conclusions of Law are as follows:

1. Dr. Holley holds a current Virginia dental license;

and

2. Dr. Holley's dental records for Patient A fail to state a diagnosis and treatment rendered; fail to list the drugs prescribed, administered, dispensed and the quantity thereof; and fail to identify the dentist or dental hygienist providing the service, in violation of § 54.1-2706(9) of the Code and 18 VAC 60-20-15(3), (4) and (7) of the Regulations of the Board of Dentistry.

The sanction reported by Ms. Kiczales was that Dr. Holley be assessed a \$1,000.00 monetary penalty, be required to complete four (4) continuing education hours in recordkeeping and three (3) continuing education hours in risk management, and be subjected to one unannounced inspection, to include a review of 10 random records at both of his offices.

Dr. Pirok moved that the Committee adopt the Findings of Fact and Conclusions of Law, and the sanctions as reported by Ms. Kiczales. The motion was seconded and passed.

As provided by law, this decision shall become a Final Order thirty days after service of such on Dr. Holley unless a written request to the Board for a formal hearing on the allegations made against him is received from Dr. Holley. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this conference committee shall be vacated.

FOURTH CONFERENCE:

2:06 p.m.

PRESIDING:

James D. Watkins, D.D.S.

MEMBERS PRESENT:

Darryl J. Pirok, D.D.S.
Misty L. Sissom, R.D.H.

STAFF PRESENT:

Patricia L. Larimer, Deputy Executive Director
Cheri Emma-Leigh, Operations Manager
Leigh C. Kiczales, Adjudication Specialist

QUORUM:

All three members of the Committee were present.

**George Berryman, Jr.,
D.D.S.
Case No. 107556**

George Berryman, Jr., D.D.S., appeared with counsel, Cindy L. Billups, Esq., to discuss allegations that he may have:

1. violated Term 1 of the Board's Order entered September 6, 2005, in that he administered nitrous oxide and/or conscious sedation to patients A-J, and by his own admission, he used conscious sedation on approximately one patient a week and nitrous oxide on four to five patients a day;
2. administered 4mg of Versed (C-IV) to Patient B, a four-year-old child and his records failed to identify the parameters used to support administering the Versed and such a dosage was contraindicated in a pediatric patient under the age of six, in violation of § 54.1-2706(5) and (11) of the Code; and
3. failed to display his name at the entrance of the office, in violation of § 54.1-2706(9) and § 54.1-2720 of the Code;
4. failed to maintain records of drugs wasted in his inventory log, in violation of § 54.1-2706(9) and § 54.1-3404.D of the Code; and
5. violated § 54.1-2706(9) and § 54.1-3404.D, in that an audit of Dr. Berryman's scheduled drugs was conducted and revealed that ten tablets of Valium and 28 cc of Versed were missing from the inventory.

Ms. Billups made a motion to strike allegation number 1 based on the wording of the Order entered September 6, 2005. Dr. Watkins stated the Committee will consider the motion during closed session.

The Committee received Dr. Berryman's statements and discussed the evidence in the case with him.

Loretta Hopson-Bush, Compliance Case Manager answered questions from the Committee concerning Dr. Berryman's probation.

Closed Meeting:

Ms. Sissom moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the

matter of George Berryman, D.D.S. Additionally, Ms. Sissom moved that Board staff, Patricia Larimer, Cheri Emma-Leigh, and Administrative Proceedings Division staff, Leigh Kiczales, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion seconded and passed.

Reconvene:

Ms. Sissom moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

The Committee reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision:

Ms. Kiczales reported the Findings of Fact and Conclusions of Law adopted by the Committee. A summary of the Findings of Fact and Conclusions of Law are as follows:

1. Dr. Berryman holds a current Virginia dental license; and
2. Dr. Berryman violated Term 1 of the Order of the Board entered September 6, 2005, in that on thirteen (13) occasions between, on or about December 11, 2005 and February 2, 2006, Dr. Berryman administered nitrous oxide and/or conscious sedation to patients A-J, and by his own admission, he used conscious sedation on approximately one patient a week and nitrous oxide on four to five patients a day.

The sanction reported by Ms. Kiczales was that Dr. Berryman be issued a reprimand and continued on probation for a total of four years from the entry of the Order entered September 6, 2005.

Dr. Pirok moved that the Committee adopt the Findings of Fact and Conclusions of Law, and the sanctions as reported by Ms. Kiczales. The motion was seconded and passed.

As provided by law, this decision shall become a Final

Order thirty days after service of such on Dr. Berryman unless a written request to the Board for a formal hearing on the allegations made against him is received from Dr. Berryman. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this conference committee shall be vacated.

ADJOURNMENT:

With all business concluded, the Committee adjourned at 4:16 p.m.

James D. Watkins, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date